

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

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CHAPTER 279

SENATE BILL 1103

AN ACT

AMENDING SECTIONS 3-144, 3-217, 3-233, 3-341, 3-351, 3-352, 3-354, 3-582, 3-1201, 3-1203, 3-1207, 3-1208, 3-1265, 3-1336 AND 3-1401, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA DEPARTMENT OF AGRICULTURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-144, Arizona Revised Statutes, is amended to
3 read:

4 3-144. State agricultural laboratory; maintenance and purpose;
5 fees

6 A. The state agricultural laboratory is established and maintained to
7 carry out this article and for laboratory examinations, diagnosis, analysis,
8 testing, quantifying and identification necessary to perform the functions
9 and duties prescribed by this article.

10 B. The state agricultural laboratory may accept samples from any
11 person for regulatory, DIAGNOSTIC and research purposes.

12 C. THE STATE AGRICULTURAL LABORATORY MAY COLLECT FEES FOR LABORATORY
13 SERVICES AS PRESCRIBED BY THE DIRECTOR.

14 Sec. 2. Section 3-217, Arizona Revised Statutes, is amended to read:

15 3-217. Nursery or nursery stock certification; fee; denial;
16 revocation or suspension; hearing

17 A. ~~If~~ The associate director ~~establishes~~ SHALL:

18 1. ESTABLISH a nursery certification program. ~~, the associate~~
19 ~~director,~~

20 2. By rule, ~~shall~~ set and collect a variable fee for each nursery or
21 nursery stock certification inspection based on a schedule of costs for
22 services as may be appropriate to recover the actual direct costs incurred by
23 the division, but not more than fifty dollars for each inspection.

24 B. If the state agricultural laboratory performs tests under a nursery
25 certification program, the laboratory may collect fees prescribed by rule for
26 the tests established as follows:

27 1. The associate director shall establish by rule the extent and type
28 of testing required for the Arizona certified nursery program including only
29 tests that the department would not otherwise have performed to determine if
30 the nursery or nursery stock is infested or infected with a crop pest or
31 disease.

32 2. The extent and type of testing required for the export criteria
33 program shall be established according to the requirements of another state,
34 country or commonwealth.

35 C. The associate director may issue, refuse to issue, revoke or
36 suspend a nursery certificate under the nursery certification program.

37 D. A person who is aggrieved by any action under the nursery
38 certification program may request a hearing pursuant to title 41, chapter 6,
39 article 10.

40 Sec. 3. Section 3-233, Arizona Revised Statutes, is amended to read:

41 3-233. Powers and duties; fees; penalty

42 A. For the purpose of carrying out this article, the director may:

43 1. In order to have access to seeds and the records pertaining to
44 seeds subject to this article and the rules adopted under this article, enter
45 upon:

1 (a) Any established plant, warehouse or place of business during
2 customary business hours.

3 (b) Any truck or other conveyance operated on land, on water or in the
4 air on probable cause or reasonable suspicion to believe that a violation of
5 this article has occurred.

6 2. Issue and enforce a written cease and desist order to the owner or
7 custodian of any lot of agricultural, vegetable or ornamental plant seed
8 which the director finds is in violation of this article, as provided in
9 section 3-238, and any lot or lots of seed sold, or transported for sale,
10 which do not meet all requirements of the plant variety protection act (P.L.
11 91-577; 84 Stat. 1542; 7 United States Code sections 2321 through 2582).

12 3. Provide through the state agricultural laboratory for seed testing
13 facilities, employ qualified persons and incur expenses necessary to comply
14 with this article.

15 4. Through the state agricultural laboratory:

16 (a) Provide for making purity, and germination, NOXIOUS WEED,
17 TETRAZOLIUM AND PATHOLOGY tests of seeds for farmers and dealers on request
18 pursuant to rules prescribed by the director governing such testing.

19 (b) Collect charges for the tests as prescribed by the director.

20 5. Cooperate with the United States department of agriculture and
21 other agencies in seed law enforcement.

22 6. Revoke, suspend, restrict, deny or choose not to renew a license
23 issued under this article or fix periods and terms of probation for a license
24 holder after a hearing at which the license holder is found by a
25 preponderance of the evidence to have violated this article or any of the
26 rules adopted under this article.

27 7. Establish by rule fees that are sufficient to cover the costs of
28 interstate and international exportation inspection activities under section
29 3-232, subsection A, paragraph 1, but annually not more than one dollar fifty
30 cents per acre. Monies received under this paragraph shall be deposited in
31 the seed law fund pursuant to section 3-234.

32 B. For THE purposes of this article, the director, after an
33 opportunity for a hearing, shall establish and collect the following fees:

34 1. For a seed dealer's license, not more than fifty dollars per year.

35 2. For a labeler's license, not more than five hundred dollars
36 per year.

37 C. The director shall assess a license holder who does not submit the
38 annual license renewal fees to the department by July 1 a penalty of ten per
39 cent of the amount of the license fee per month for not more than three
40 months. Penalties collected under this subsection shall be deposited in the
41 seed law fund pursuant to section 3-234.

42 Sec. 4. Section 3-341, Arizona Revised Statutes, is amended to read:
43 3-341. Definitions

44 For the purposes of this article:

- 1 1. "Active ingredient" means an ingredient ~~which~~ THAT will prevent,
2 destroy, repel or mitigate pests, ~~or which~~ THAT will act as a plant
3 regulator, defoliant or desiccant.
- 4 2. "Adulterated" means any pesticide the strength or purity of which
5 falls below the professed standard or quality as expressed on labeling or
6 under which it is sold, or if any substance has been substituted wholly or in
7 part for the article, or if any valuable constituent of the article has been
8 wholly or in part abstracted.
- 9 3. "Animal" means all vertebrate and invertebrate species, including,
10 but not limited to, humans and other mammals, birds, fish and shellfish.
- 11 4. "Antidote" means the most practical immediate treatment in case of
12 poisoning and includes first aid treatment.
- 13 5. "Associate director" means the associate director of the
14 environmental services division.
- 15 6. "Beneficial insects" means those insects ~~which~~ THAT, during their
16 life cycle, are effective pollinators of plants, are parasites or predators
17 of pests or are otherwise beneficial.
- 18 7. "Defoliant" and "desiccant" means any substance or mixture of
19 substances intended for killing or artificially accelerating the drying of
20 plant tissues, with or without causing abscission.
- 21 8. "Device" means any instrument or contrivance intended for trapping
22 insects, and includes any instrument or contrivance intended for destroying,
23 repelling or mitigating insects or rodents or destroying, repelling or
24 mitigating fungi or weeds, or such other pests as may be designated by the
25 director, but not including equipment used for the application of pesticides
26 when sold separately therefrom.
- 27 9. "Distribute" means to offer for sale, hold for sale, sell, ~~OR~~
28 ~~barter, ship or deliver for shipment or receive, deliver or offer to deliver,~~
29 pesticides FOR USE in this state.
- 30 10. "Division" means the environmental services division of the Arizona
31 department of agriculture.
- 32 11. "Fungi" means all non-chlorophyll-bearing thallophytes, that is,
33 all non-chlorophyll-bearing plants of a lower order than mosses and
34 liverworts, as, for example, rusts, smuts, mildews, molds and yeasts, except
35 those on or in living humans or other animals.
- 36 12. "Inert ingredient" means an ingredient ~~which~~ THAT is not an active
37 ingredient.
- 38 13. "Ingredient statement" means a statement of the name and percentage
39 of each active ingredient, together with the total percentage of the inert
40 ingredients, in the pesticide.
- 41 14. "Insect" means any of the numerous small invertebrate animals
42 generally having the body more or less obviously segmented, for the most part
43 belonging to the class insecta, comprising six-legged, usually winged forms,
44 as, for example, beetles, bugs, bees and flies, and to other allied classes

1 of arthropods whose members are wingless and usually have more than six legs,
2 as, for example, spiders, mites, ticks, centipedes and wood lice.

3 15. "Label" means the written, printed or graphic matter on, or
4 attached to, the pesticide or device, or the immediate container thereof, and
5 the outside container or wrapper of the retail package, if there is any, of
6 the pesticide or device.

7 16. "Labeling" means all labels and other written, printed or graphic
8 matter:

9 (a) Upon the pesticide or device or any of its containers or wrappers.

10 (b) Accompanying the pesticide or device at any time.

11 (c) To which reference is made on the label or in literature
12 accompanying the pesticide or device, except when accurate, ~~non-misleading~~
13 NONMISLEADING reference is made to current official publications of the
14 United States departments of agriculture or interior, the United States
15 public health service, state experiment stations, state agricultural colleges
16 or other similar federal institutions or official agencies of the state or
17 other states authorized by law to conduct research in the field of
18 pesticides.

19 17. "Misbranded" ~~shall apply~~ APPLIES:

20 (a) To any pesticide or device if its labeling bears any statement,
21 design or graphic representation relative thereto or to its ingredients ~~which~~
22 THAT is false or misleading in any particular.

23 (b) To any pesticide:

24 (i) If it is an imitation of, or is offered for sale under the name
25 of, another pesticide.

26 (ii) If the labeling accompanying it does not contain directions for
27 use ~~which~~ THAT are necessary and, if complied with, adequate for the
28 protection of the public.

29 (iii) If the label does not contain a warning or caution statement
30 ~~which~~ THAT may be necessary and, if complied with, adequate to prevent injury
31 to living humans and other vertebrate animals.

32 (iv) If the label does not bear an ingredient statement on that part
33 of the immediate container and on the outside container or wrapper, if there
34 is one, through which the ingredient statement on the immediate container
35 cannot be clearly read, of the retail package ~~which~~ THAT is presented or
36 displayed under customary conditions of purchase.

37 (v) If any word, statement or other information required by or under
38 the authority of this article to appear on the labeling is not prominently
39 placed thereon with such conspicuousness, as compared with other words,
40 statements, designs or graphic matter in the labeling, and in such terms as
41 to render it likely to be read and understood by the ordinary individual
42 under customary conditions of purchase and use.

43 (vi) If used as directed or in accordance with commonly recognized
44 practice, it is injurious to living humans or other vertebrate animals or

1 vegetation, other than the pest to which it is applied, or to the person
2 applying such pesticide.

3 18. "Nematode" means invertebrate animals of the phylum nemathelminthes
4 and class nematode, including unsegmented round worms with elongated,
5 fusiform, or sac-like bodies covered with cuticle and inhabiting soil, water,
6 plants or plant parts.

7 19. "Person" means any individual, partnership, association,
8 corporation or organized group of persons whether incorporated or not.

9 20. "Pest" means:

10 (a) Any weed, insect, vertebrate pest, nematode, fungus, virus,
11 ~~bacteria~~ BACTERIUM or other pathogenic organisms.

12 (b) Any other form of terrestrial or aquatic plant or animal life,
13 except virus, ~~bacteria~~ BACTERIUM or other microorganism on or in living
14 humans or other living animals, which the director declares to be a pest for
15 the purpose of enforcement of this article.

16 21. "Pesticide" means:

17 (a) Any substance or mixture of substances intended for preventing,
18 destroying, repelling or mitigating any pest.

19 (b) Any substance or mixture of substances intended for use as a plant
20 regulator, defoliant or desiccant.

21 22. "Plant regulator" means any substance or mixture of substances
22 intended, through physiological action, for accelerating or retarding the
23 rate of growth or rate of maturation or for otherwise altering the behavior
24 of plants or the produce thereof, but does not include substances to the
25 extent that they are intended as plant nutrients, trace elements, nutritional
26 chemicals, plant inoculants and soil amendments.

27 23. "Registrant" means the person registering any pesticide pursuant to
28 this article.

29 24. "Weed" means any plant ~~which~~ THAT grows where IT IS not wanted.

30 Sec. 5. Section 3-351, Arizona Revised Statutes, is amended to read:

31 3-351. Registration; fee; confidential information

32 A. ~~Every pesticide which is distributed, sold or offered for sale~~
33 ~~within the state or delivered for transportation or transported in intrastate~~
34 ~~commerce or between points within this state through any point outside the~~
35 ~~state THAT IS DISTRIBUTED shall be registered with the division. Through~~
36 ~~1998, the registration expires on December 31 of the year in which the~~
37 ~~registration was made and shall be renewed annually. Beginning in 1999, The~~
38 ~~director may provide by rule for registration REGISTRATIONS having a term of~~
39 ~~one or more years and may prescribe the date on which registrations expire.~~

40 B. The registrant shall file with the division a statement including:

41 1. The name and address of the registrant and the name and address of
42 the person whose name will appear on the label, if other than the registrant.

43 2. The name of the pesticide.

44 3. A complete copy of the labeling accompanying the pesticide and a
45 statement of all claims to be made for it including directions for use. IF

1 THE REGISTRANT DISTRIBUTES LABELS IN A LANGUAGE IN ADDITION TO ENGLISH, THE
2 REGISTRANT SHALL PROVIDE A COPY OF BOTH LABELS WITH A SIGNED STATEMENT THAT
3 THE LABEL DIRECTIONS HAVE THE SAME MEANING AND PROVIDE THE SAME USE
4 DIRECTIONS AS ON THE WRITTEN ENGLISH LABEL.

5 4. If requested by the division, a full description of the tests made
6 and the results ~~thereof upon~~ OF THOSE TESTS ON which the claims are based.

7 C. For a renewal of registration: —

8 1. A statement shall be required only with respect to information
9 ~~which~~ THAT is different from that furnished when the pesticide was registered
10 or last reregistered.

11 2. IF REQUESTED BY THE DIRECTOR, A COMPLETE COPY OF LABELING SHALL BE
12 SUBMITTED.

13 D. Any person desiring to register under ~~the provisions of~~ this
14 article shall pay to the division a registration fee of one hundred dollars
15 per year for each pesticide. The monies collected from registration fees
16 shall be allocated as follows:

17 1. Twenty-five dollars for each year of the registration term shall be
18 allocated pursuant to section 3-350.

19 2. Seventy-five dollars for each year of the registration term shall
20 be deposited in the water quality assurance revolving fund established by
21 section 49-282.

22 E. All federal, state and county offices shall register without fee
23 all pesticides sold at cost by them.

24 F. If the director deems it necessary in the administration of this
25 article, the director may require the submission of the complete formula of
26 any pesticide or the confidential statement of formula and the analytical
27 methods for the analysis of the active ingredients in the formulation. For
28 any product having a federal registration, the director may request, ~~upon~~ ON
29 reasonable cause, the analytical methods for the analysis of residues of the
30 active ingredients of the pesticide in environmental media provided that this
31 information has been developed by the applicant and submitted to the United
32 States environmental protection agency. Information provided by the
33 applicant pursuant to this section shall be afforded applicable trade secret
34 and confidentiality protections. Other products exempted from federal
35 registration requirements and required to be registered under this section
36 shall be subject to this subsection.

37 G. If it appears to the director that the composition of the article
38 is such as to warrant the proposed claims for it and if the article and its
39 labeling and other material required to be submitted comply with the
40 requirements of section 3-352, the division shall register the article. If
41 the director finds that the pesticide does not warrant the proposed claims,
42 the director may request a full description of the tests conducted and the
43 results of the tests on which the claims are based. If the pesticide or its
44 labeling and other material that are required to be submitted do not comply
45 with this article, the director shall notify the applicant of the manner in

1 which the pesticide, labeling or other material fails to comply with the law
2 to afford the applicant an opportunity to make the necessary corrections. If
3 the applicant does not make the corrections and cannot support the claim on
4 the label, the director may refuse to register the pesticide.

5 H. In submitting data required by this article, the applicant shall
6 clearly mark any portions that are trade secrets or commercial or financial
7 information. The applicant shall identify as confidential information any
8 such marked material and submit it separately from other material required to
9 be submitted under this article. The information shall be kept confidential
10 by the department unless written permission to release the information is
11 granted by the registrant or ~~upon~~ ON order of a court of jurisdiction.

12 I. In order to protect the public, the associate director ~~may~~, after a
13 hearing, MAY cancel the registration of a pesticide. The associate director
14 shall cancel the registration of a pesticide on notification by the director
15 of environmental quality pursuant to section 49-306 or 49-309.

16 J. Notwithstanding any other provision of this article, registration
17 is not required in the case of a pesticide shipped from one plant within the
18 state to another plant within the state operated by the same person.

19 K. A registrant who discontinues distribution of a pesticide shall
20 continue its registration in this state for three years after the
21 discontinuation to allow the remaining product to move through the channels
22 of trade. The registrant shall notify the appropriate entities within the
23 channels of trade of the effective date of the discontinuation.

24 Sec. 6. Section 3-352, Arizona Revised Statutes, is amended to read:

25 3-352. Prohibited acts

26 A. It is unlawful for any person acting independently or as agent to
27 ~~distribute, sell or offer for sale within the state or deliver for~~
28 ~~transportation or transport in intrastate commerce or between points within~~
29 ~~the state through any point outside this state any of the following:~~

30 1. Any pesticide ~~which~~ THAT has not been registered pursuant to ~~the~~
31 ~~provisions of~~ section 3-351, or any pesticide if any of the claims made for
32 it or any of the directions for its use differ in substance from the
33 representations made in connection with its registration, or if the
34 composition of a pesticide differs from its composition as represented in
35 connection with its registration, but at the discretion of the director, a
36 change in the labeling or formula of a pesticide may be made within a
37 registration period without requiring reregistration of the product.

38 2. Any pesticide unless it is in the registrant's or the
39 manufacturer's unbroken immediate container and there is affixed to such
40 container, and to the outside container or wrapper of the retail package, if
41 there is one, through which the required information on the immediate
42 container cannot be clearly read, a label bearing:

43 (a) The name and address of the manufacturer, registrant or person for
44 whom manufactured.

45 (b) The name, brand or trademark under which the article is sold.

1 (c) The net weight or measure of the content subject, however, to such
2 reasonable variations as the state may permit.

3 3. Any pesticide ~~which~~ THAT contains any substance or substances in
4 quantities highly toxic to humans, determined as provided in section 3-343,
5 unless the label bears, in addition to any other matter required by this
6 article:

7 (a) Warning statements or symbols required by regulation.

8 (b) A statement of a practical treatment, first aid or otherwise in
9 case of poisoning by the pesticide.

10 4. Any pesticide ~~which~~ THAT is adulterated or misbranded, or any
11 device ~~which~~ THAT is misbranded.

12 5. Any pesticide the label of which does not contain necessary
13 information, which information the director has prescribed by rule.

14 B. It is unlawful:

15 1. For any person to detach, alter, deface or destroy, wholly or in
16 part, any label or labeling provided for in this article or rules adopted
17 under this article, or to add any substance to, or take any substance from, a
18 pesticide in a manner that may defeat the purposes of this article.

19 2. For any person to use for his own advantage or to reveal, other
20 than to the director or proper officials or employees of the state or to the
21 courts of the state in response to a subpoena, or to physicians, or in
22 emergencies to pharmacists and other qualified persons for use in the
23 preparation of antidotes, any information relative to formulas of products
24 acquired by authority of section 3-351.

25 Sec. 7. Section 3-354, Arizona Revised Statutes, is amended to read:

26 3-354. Cease and desist orders; condemnation and destruction or
27 sale of noncomplying pesticides or devices

28 A. When the director finds from investigation that any pesticide or
29 device being distributed, ~~sold or offered for sale within this state~~ or
30 delivered for transportation or transported in intrastate commerce or between
31 points within the state through any point outside this state does not meet
32 the requirements of this article as follows, the director may take the action
33 prescribed by subsection B of this section:

34 1. In the case of a pesticide:

35 (a) If it is adulterated or misbranded.

36 (b) If it has not been registered, IF NECESSARY, under ~~the provisions~~
37 ~~of~~ section 3-351.

38 (c) If it fails to bear on its label the information required by ~~this~~
39 ~~article~~ LAW.

40 (d) If it is a white powder pesticide and is not colored as required
41 under this article.

42 2. In the case of a device, if it is misbranded.

43 B. Upon the discovery of any of the facts set forth in subsection A of
44 this section:

1 1. The director may serve the person violating ~~any provisions of this~~
2 article with a cease and desist order requiring the person, on receiving the
3 notice, to immediately cease and desist the violation. The order shall be
4 served by any method of service authorized by the Arizona rules of civil
5 procedure.

6 2. The department may issue and serve a written cease and desist order
7 ~~upon~~ ON the owner or custodian of any pesticide or device found to be in
8 violation of this article. The pesticide or device shall not be sold, used
9 or removed until ~~the provisions of this article have~~ HAS been complied with
10 and the pesticide or device has been released in writing by the director or
11 the violation has been otherwise disposed of as provided in this article by a
12 court of competent jurisdiction.

13 3. If the director discovers any pesticide or device ~~which~~ THAT is in
14 violation of this article, and the owner or custodian is not available for
15 service of the order, the director may attach the order to the pesticide or
16 device and the pesticide or device shall not be sold, used or removed until
17 ~~the provisions of this article have~~ HAS been complied with and the pesticide
18 or device has been released in writing by the director or the violation has
19 been otherwise disposed of as provided in this article by a court of
20 competent jurisdiction.

21 C. After a cease and desist order is served on any person, either that
22 person or the director may file an action in the superior court in the county
23 in which a violation of this article is alleged to have occurred for an
24 adjudication of the alleged violation. The court may issue temporary or
25 permanent injunctions, mandatory or restraining, and intermediate orders it
26 deems necessary or advisable. The court may order condemnation of any
27 pesticide or device ~~which~~ THAT does not meet the requirements of this
28 article. The action shall be tried de novo.

29 D. If the article is condemned, it shall BE DISPOSED OF, after entry
30 of decree, ~~be disposed of~~ by destruction or sale as the court directs, and
31 the proceeds, if the article is sold, less legal costs, shall be paid into
32 the pesticide fund. ~~Upon~~ ON payment of costs and execution and delivery of a
33 good and sufficient bond conditioned so that the article shall not be
34 disposed of unlawfully, the court may direct that the article be delivered to
35 the owner of the article for relabeling or reprocessing as the case may be.

36 E. When a decree of condemnation is entered against the article, court
37 costs, fees and storage and other proper expenses shall be awarded against
38 the person, if any, intervening as claimant of the article.

39 Sec. 8. Section 3-582, Arizona Revised Statutes, is amended to read:

40 3-582. Arizona grain research and promotion council;
41 appointment; term

42 A. An Arizona grain research and promotion council is established
43 ~~which~~ THAT is composed of ~~nine~~ SEVEN producers appointed by the governor. To
44 be qualified for appointment to council membership a person must be a
45 resident of and producer in this state.

1 B. The term of office of council members is three years, expiring on
2 January 31. The qualifications of members as provided for in this section
3 must continue during their term of office or their office will be declared
4 vacant. The governor shall appoint a person when a vacancy occurs to serve
5 for the remainder of the unexpired term.

6 C. Members of the council shall serve without compensation but are
7 entitled to reimbursement for subsistence and travel as provided by ~~law for~~
8 ~~other state officers~~ TITLE 38, CHAPTER 4, ARTICLE 2.

9 Sec. 9. Section 3-1201, Arizona Revised Statutes, is amended to read:
10 3-1201. Definitions

11 In this chapter, unless the context otherwise requires:

12 1. "Aquaculture" means the controlled propagation, growth and harvest
13 of aquatic animals or plants, including fish, amphibians, shellfish,
14 mollusks, crustaceans, algae and vascular plants.

15 2. "Associate director" means the associate director of the division.

16 3. "Division" means the animal services division of the Arizona
17 department of agriculture.

18 4. "Equine" means horses, mules, burros and asses.

19 5. "Livestock" means cattle, equine, sheep, goats and swine, except
20 feral pigs.

21 6. "LIVESTOCK OFFICER" MEANS AN ANIMAL HEALTH AND WELFARE OFFICER,
22 ANIMAL HEALTH AND WELFARE INSPECTOR OR INVESTIGATOR EMPLOYED BY THE
23 DEPARTMENT.

24 ~~6-~~ 7. "Poultry" means any domesticated bird, whether live or dead,
25 and includes chickens, turkeys, ducks, geese, guineas, ratites and squabs.

26 ~~7-~~ 8. "Range" means every character of lands, enclosed or unenclosed,
27 outside of cities and towns, upon which livestock is permitted by custom,
28 license or permit to roam and feed.

29 ~~8-~~ 9. "Range livestock" means livestock customarily permitted to roam
30 upon the ranges of the state, whether public domain or in private control,
31 and not in the immediate actual possession or control of the owner although
32 occasionally placed in enclosures for temporary purposes.

33 ~~9-~~ 10. "Ratite" means ostriches, emus, rheas and cassowaries.

34 Sec. 10. Section 3-1203, Arizona Revised Statutes, is amended to read:
35 3-1203. General powers and duties; civil penalties

36 A. The director or the director's authorized representative shall
37 exercise general supervision over the livestock interests of the state,
38 protect the livestock industry from theft and the livestock and poultry
39 industries from contagious and infectious diseases and protect the public
40 from diseased and unwholesome meat products.

41 B. The director may, with the advice of the state veterinarian, MAY
42 make rules to control and govern:

43 1. Importation of animals and poultry into the state, establishment of
44 quarantine and its boundaries, notice of quarantine and accomplishment of all
45 things necessary to effect the object of the quarantine and to protect the

1 livestock and poultry industries from and prevent the spread of contagious or
2 infectious diseases.

3 2. Slaughter of animals and poultry affected with BY contagious or
4 infectious diseases and disposition of carcasses of animals and poultry so
5 slaughtered, when the action appears necessary to prevent the spread of
6 contagion or infection among livestock and poultry.

7 3. Importation, manufacture, sale, distribution or use within the
8 state of serums, vaccines and other biologics intended for diagnostic or
9 therapeutic treatment of animals and poultry, and the importation,
10 manufacture or use of virulent blood or living virus of diseases affecting
11 animals and poultry.

12 C. The director may:

13 1. Enter into agreements with neighboring states, including agreements
14 regarding the use of livestock officers or livestock inspectors or other
15 agency resources for the purpose of enforcement of livestock laws within this
16 state or within border areas of neighboring states.

17 2. Waive inspections, service charges or inspection fees under this
18 chapter in cases the director deems advisable.

19 3. Direct employees or peace officers to execute the director's orders
20 under this chapter.

21 D. The director may adopt by rule a mandatory self-inspection program
22 for moving livestock from one location to another, and may provide for the
23 private treaty sale of self-inspected livestock. The associate director
24 shall monitor compliance with the requirements of the self-inspection program
25 and shall periodically examine self-inspection records, including livestock
26 inventory records that verify the origin, shipment or sale of livestock. For
27 just cause the director may suspend or modify the self-inspection
28 authorization of feedlots, dairies and producers. A person who knowingly
29 violates the requirements of the self-inspection program shall be placed on
30 administrative probation by the director for a period of one year. If a
31 subsequent violation occurs during the period of probation, the person shall
32 be brought before an administrative law judge and is subject to a civil
33 penalty of two hundred dollars per violation, and the self-inspection
34 authorization shall be revoked for a period of three years. The director may
35 review any order of the administrative law judge and shall review each order
36 involving subsequent violations during a period of probation pursuant to
37 title 41, chapter 6, article 10. The period of a sanction imposed under this
38 subsection begins on the date of determination of the violation at a
39 hearing. Civil penalties imposed under this subsection shall be deposited,
40 pursuant to sections 35-146 and 35-147, in the state general fund.

41 E. The director may establish a central investigation group to
42 investigate reports of crimes related to livestock AND OTHER VIOLATIONS OF
43 THIS TITLE AND RULES ADOPTED PURSUANT TO THIS TITLE. Livestock officers and
44 other employees of the department shall report all cases of apparent crimes
45 related to livestock to the associate director. The investigation group

1 shall cooperate and coordinate its activities with appropriate federal, state
2 and local law enforcement agencies in apprehending and prosecuting violators
3 of livestock laws.

4 Sec. 11. Section 3-1207, Arizona Revised Statutes, is amended to read:

5 3-1207. Cooperation with United States; confidentiality

6 A. In addition to other powers and duties conferred ~~upon him~~ by law,
7 the director may cooperate with the animal and plant health inspection
8 service of the United States department of agriculture, or other agency of
9 the United States vested with similar powers and duties, in:

10 1. The control of ~~foot and mouth disease, pleuro-pneumonia,~~
11 ~~rinderpest, surra and other~~ contagious or infectious diseases of animals, and
12 contagious or infectious diseases of poultry.

13 2. THE NATIONAL ANIMAL IDENTIFICATION SYSTEM.

14 B. Inspectors of the animal and plant health inspection service may
15 exercise all rights and authority granted to livestock officers, but they do
16 not have enforcement powers granted to livestock officers.

17 C. PREMISES REGISTRATION DATA, ANIMAL IDENTIFICATION DATA AND ANIMAL
18 TRACKING DATA COLLECTED BY THE DIRECTOR PURSUANT TO THE NATIONAL ANIMAL
19 IDENTIFICATION SYSTEM ARE NOT SUBJECT TO DISCLOSURE PURSUANT TO TITLE 39.

20 Sec. 12. Section 3-1208, Arizona Revised Statutes, is amended to read:

21 3-1208. Officers and inspectors; conditions of employment

22 A. ~~An applicant for employment as a livestock officer or inspector~~
23 ~~must successfully complete, first, a written examination of the applicant's~~
24 ~~HAVE knowledge of animal husbandry and livestock laws and, second, a field~~
25 ~~test of his knowledge of brands, breeds and livestock handling.~~

26 B. Within twelve months after employment, a livestock officer must
27 successfully complete the law enforcement training course prescribed by the
28 Arizona peace officer standards and training board in order to achieve
29 permanent state employee status. THIS SUBSECTION DOES NOT APPLY TO ANIMAL
30 HEALTH AND WELFARE INSPECTORS.

31 C. The director may authorize employment of livestock inspectors to
32 inspect livestock on a full-time, part-time or seasonal basis. Livestock
33 inspectors may exercise all rights and authority granted to livestock
34 officers, but they do not have enforcement powers granted to livestock
35 officers except as specifically provided by law.

36 D. The director may assign personnel from the office of inspections to
37 perform any of the inspections prescribed by this chapter under the direction
38 of the associate director.

39 E. Livestock officers and inspectors shall take the oath of office on
40 employment.

41 Sec. 13. Section 3-1265, Arizona Revised Statutes, is amended to read:

42 3-1265. Failure to rerecord as abandonment

43 All recorded brands or earmarks for which no application to rerecord
44 has been made within ~~one year~~ THREE YEARS following the due date for
45 rerecording shall be deemed abandoned and no longer of record.

1 Sec. 14. Section 3-1336, Arizona Revised Statutes, is amended to read:
2 3-1336. Inspection of livestock to be slaughtered, sold or
3 transported; fee; violation; classification

4 A. Except as otherwise provided in this section, livestock, other than
5 equines and livestock inspected at feedlots or dairies pursuant to section
6 3-1337, shall not be slaughtered, sold, purchased, driven, transported,
7 shipped or conveyed unless the animals have been inspected by a livestock
8 officer or inspector for health, brands and marks before they are
9 slaughtered, sold, purchased, driven, transported, shipped or conveyed and
10 the inspection fee paid.

11 B. The owner or agent of the owner of the livestock to be slaughtered,
12 sold, driven, transported, shipped or conveyed as provided in subsection A of
13 this section shall notify the nearest livestock officer or inspector of that
14 intention.

15 C. Equines consigned to either licensed Arizona livestock auctions or
16 other special auctions approved by the department from out of state or from
17 Indian reservations in this state or from other state or federal agencies
18 without prior inspection shall be inspected on delivery at an auction.

19 D. All livestock other than equines sold at auctions shall be
20 inspected out on an inspection certificate or auction invoice validated by
21 the department.

22 E. The owner or producer of livestock excluding equines may slaughter
23 or transport to another person to slaughter such livestock without having the
24 animal inspected and without paying the inspection fee or service charge if
25 the meat of such slaughtered livestock is solely for home consumption by such
26 owner providing that such owner contacts a livestock officer or inspector
27 within a forty-eight hour period prior to slaughter and is able to establish
28 proof of ownership either by a prior inspection certificate, by a recorded
29 brand on the animal or that the animal was raised by said owner, and the hide
30 is inspected as provided for in section 3-2011. If proof of ownership cannot
31 be established to the satisfaction of the livestock officer or inspector then
32 the livestock officer or inspector may require an inspection prior to
33 slaughter.

34 F. The associate director may waive an inspection for brands and marks
35 before the slaughter of an animal if a federal or state meat inspector on the
36 premises certifies on a form provided by the department that, as determined
37 by an antemortem inspection, the animal is in a distressed condition and for
38 humane reasons should be slaughtered immediately if it is otherwise fit for
39 slaughter and if the hide, carcass and certification are segregated and held
40 pending inspection for brands and marks. The associate director may waive
41 inspections under this subsection only for individual animals, and a separate
42 certification shall be made for each animal.

43 G. Livestock officers or inspectors shall not inspect livestock for
44 health before they are slaughtered at an establishment which is subject to
45 federal meat inspections as provided under chapter 13 of this title.

1 H. A person violating any provision of this section is guilty of a
2 class 3 misdemeanor.

3 I. IF A FEDERAL GOVERNMENTAL ENTITY SEIZES ANY PRIVATELY OWNED ANIMALS
4 SUBJECT TO BRAND INSPECTION PURSUANT TO THIS CHAPTER, THE DEPARTMENT OR ITS
5 AUTHORIZED INSPECTOR SHALL NOT ISSUE BRAND INSPECTION CERTIFICATES OR PERMITS
6 TO REMOVE THE ANIMALS OR FOR THE TRANSFER OF OWNERSHIP OF THE ANIMALS BY SALE
7 OR OTHERWISE UNLESS ONE OF THE FOLLOWING OCCURS:

8 1. THE DEPARTMENT RECEIVES CONSENT FROM THE OWNER.

9 2. THE OWNER IS UNKNOWN.

10 3. BEFORE THE SEIZURE, THE FEDERAL GOVERNMENTAL ENTITY OBTAINS
11 APPROVAL FOR THE SEIZURE FROM A COURT OF COMPETENT JURISDICTION AND SUBMITS A
12 COPY OF THE ORDER APPROVING THE SEIZURE TO THE DEPARTMENT OR ITS AUTHORIZED
13 INSPECTOR.

14 J. THIS SECTION DOES NOT APPLY TO:

15 1. A FERAL ANIMAL.

16 2. WILD FREE-ROAMING HORSES AND BURROS, AS DEFINED IN 16 UNITED STATES
17 CODE SECTION 1332.

18 3. A STRAY ANIMAL.

19 4. AN ANIMAL THAT IS SEIZED BY A GOVERNMENTAL ENTITY TO PROTECT THE
20 HEALTH AND SAFETY OF THE PUBLIC OR TO PREVENT CRUELTY TO THE ANIMAL.

21 Sec. 15. Section 3-1401, Arizona Revised Statutes, is amended to read:

22 3-1401. Definition of stray animal

23 "Stray animal" as used in this article means livestock, bison or
24 ratites whose owner is unknown or cannot be located, or any SUCH animal whose
25 owner is known but permits the animal to roam at large on the streets,
26 alleys, roads, range or premises of another without permission, EXCEPT THAT
27 THIS SECTION DOES NOT APPLY TO LIVESTOCK WHERE THE PRINCIPLES OF A FEDERAL
28 PERMIT, FEDERAL ALLOTMENT OR FEDERAL LEASE ARE IN DISPUTE.

29 Sec. 16. Transition

30 Section 3-582, Arizona Revised Statutes, as amended by this act, does
31 not affect the term or qualification of any incumbent member to serve on the
32 Arizona grain research and promotion council. Notwithstanding section 3-582,
33 Arizona Revised Statutes, the governor shall not appoint a replacement member
34 on the expiration of a term until the number of members serving on the
35 council is reduced to seven.

APPROVED BY THE GOVERNOR MAY 16, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2006.